

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Clarence Wayne Dixon,  
Petitioner,

v.

Arizona Department of Corrections  
Rehabilitation and Reentry, et al.,  
Respondents.

No. CV-22-00743-PHX-DJH (JFM)

**ORDER**

In this civil rights action, Plaintiff Clarence Dixon challenges ADCRR's failure to provide Beyond Use Date information for the compounded pentobarbital the State intends to use to execute him next Wednesday, May 11, 2022. Plaintiff filed an Emergency Motion for Temporary Restraining Order or Preliminary Injunction to compel that information or stay his execution (Doc. 5).

Defendants filed a Motion to Dismiss and a Response indicating it had provided the information Plaintiff requested (Doc. 9). Defendants attached a redacted laboratory report reflecting various testing of compounded pentobarbital which, according to Defendants, includes "what facially is a BUD." Plaintiff disputes that the information provided is responsive to his request for confirmation that the State plans to execute him with unexpired pentobarbital (Doc. 11).

Upon review of the laboratory report, the Court will direct Defendants to file a supplemental Notice as reflected herein.

The Notice must state the Beyond Use Date for the compounded pentobarbital the


1 State intends to use to execute Plaintiff next Wednesday, May 11, 2022. If unable to  
2 provide that specific information, the Notice must explain to the Court why the State is  
3 unable to provide such information. To the extent that the State needs additional  
4 certification from the compounding pharmacist to establish the BUD, the Court will  
5 allow them to obtain that additional certification, but the Notice must explain: 1) exactly  
6 how it intends to obtain any additional testing or certification and 2) when it will be  
7 provided to Plaintiff and to the Court.

8 Because of the obvious time constraints, the Court will set this matter for a status  
9 conference tomorrow, Saturday May 7, 2022 at 11.30 a.m. to discuss any issues relating  
10 to the State's forthcoming notice.

11 **IT IS ORDERED:**

- 12 (1) Before midnight on May 6, 2022, Defendants must file a Notice as  
13 described herein.
- 14 (2) This matter is set for a Telephonic Status Conference tomorrow, **Saturday**  
15 **May 7, 2022 at 11.30 a.m.** to discuss any issues relating to the State's  
16 forthcoming notice. The Court will email the parties dial-in instructions.

17 Dated this 6th day of May, 2022.

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21 Honorable Diane J. Humetewa  
22 United States District Judge  
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